

Brussels, 21 January 2022

**EUROPEAN COMMITTEE OF THE REGIONS' CONTRIBUTION TO
THE EUROPEAN COMMISSION'S 29TH ANNUAL REPORT 2021 ON THE APPLICATION OF
THE PRINCIPLES OF SUBSIDIARITY AND PROPORTIONALITY**

The European Committee of the Regions' (CoR) subsidiarity-relevant activities in 2021 were determined by the CoR's priorities for the 2020-2025 mandate period, which had reiterated the CoR's '*determination to continue to improve the quality of EU legislation and to better anticipate its territorial impact and promote the principle of active subsidiarity*'.

This determination was also confirmed by the findings of the CoR's 2021 Annual Regional and Local Barometer presented in October 2021, which "*(emphasised) that – according to the first-ever survey carried out on behalf of the CoR among more than one million politicians elected at subnational level – almost two thirds of local politicians (64%) feel that there is not enough influence of regions, cities and villages on EU policy-making. Therefore, Europe can emerge more democratically, and also more environmentally, resilient from the COVID-19 crisis with a formal recognition and application of active subsidiarity to ensure that actions are taken at the level whose action will produce maximised added value for citizens, and that coordinated and effective decision-making processes are in place*"¹.

In 2021, 10 legislative CoR opinions, 17 non-legislative CoR opinions and 5 resolutions out of a total of 59 opinions and 9 resolutions included specific references to the compliance with subsidiarity and proportionality, or concrete recommendations to improve compliance.

Many of these references were based on the 30 contributions on subsidiarity and proportionality submitted in 2021 via REGPEX, the sub-network of the Subsidiarity Monitoring Network², open to Parliaments and governments of regions with legislative powers to support their participation in the early phase of the legislative process (subsidiarity check).

The Subsidiarity Steering Group, chaired by the Committee's former President Karl-Heinz Lambertz (BE/PES) and advised by the CoR's Subsidiarity Expert Group, identified five priority initiatives for the 2021 subsidiarity work programme, out of which three relating to the Fit for 55 package: the Revision of the Energy

¹ <https://webapi2016.cor.europa.eu/v1/documents/COR-2021-03857-00-00-RES-TRA-EN.docx/content>

² <http://portal.cor.europa.eu/subsidiarity/thesmn/Pages/default.aspx> Launched in April 2007, the Subsidiarity Monitoring Network was set up to facilitate the exchange of information between local and regional authorities and the Union level regarding various documents and legislative and political proposals from the Commission. The network serves as an access point, enabling all of its partners not only to obtain information but also to express their views. At the end of 2021, it had 150 members, while REGPEX had 76 members.

Performance of Buildings Directive, the Amendment to the Renewable Energy Directive to implement the ambition of the new 2030 climate target and the Amendment of the Energy Efficiency Directive to implement the ambition of the new 2030 climate target. The other two topics were the legislative proposal on Minimising the risk of deforestation and forest degradation associated with products placed on the EU market and the Revision of the Regulation on the trans-European transport network (TEN-T).

For two of the most sensitive legislative proposals with regard to subsidiarity, on which the CoR adopted opinions in 2021, namely the one on the New Pact on Migration and Asylum³ and on the minimum wage directive⁴, the CoR came to the conclusion, after consulting its Subsidiarity Monitoring Network, that the legislative proposals were in conformity with the subsidiarity principle. With regard to the minimum wage directive, the position expressed at an early stage of the legislative procedure in the relevant CoR opinion was later confirmed by both the analyses of the Legal Services of the Council and of the European Parliament and reflected in the corresponding EP draft report.

Considering that the application of the subsidiarity principle had to be monitored not only in legislative decision-making but also in governance processes such as the European Semester the CoR co-organised with the Conference of Regional Legislative Assemblies of the EU (CALRE)⁵ a workshop on "Multi-level governance and active subsidiarity for sustainable recovery and resilience" in October 2021 within the framework of the European Week of Regions and Cities⁶. The workshop's conclusions were also echoed in the CoR's resolution on the 2021 Annual Barometer, in which the CoR "*reaffirmed the need to involve LRAs in the evaluation and the implementation of the Recovery and Resilience Facility (RRF) and more specifically of its main operational tools – National Recovery and Resilience Plans (NRRPs). As feared in the first edition of the Barometer, this involvement has proved limited: a very small number of Member States have detailed the involvement of their LRAs in their consultation process or have systematically described the role of LRAs for each policy field. This lack of involvement is of concern given that LRAs are key drivers for public investment and that the very objectives of the RRF are of particular relevance for LRAs according to the breakdown of competences. Argues that the ways in which the NRRPs have been drawn up and the LRAs have been involved are not conducive to promoting ownership of the recovery plans. Many country-specific recommendations were not followed up due to the lack of ownership and involvement of the LRAs in the European Semester*".

In two positions adopted at its December 2021 plenary session, i.e. its opinion reacting to the Communication from the Commission on "Better regulation: Joining forces to make better laws"⁷ and its Resolution on the 2022 Work Programme of the European Commission, the CoR "*reiterated its call for the interinstitutional agreement (...) on better regulation to be reviewed, incorporating the multilevel dimension of the European regulatory process, as suggested by the Task Force on Subsidiarity*".

The CoR also committed to creating a CoR Better Regulation Toolbox to integrate all existing better regulation

³ CoR opinion by Antje Grotheer (DE/PES) adopted on 19 March 2021 <https://webapi2016.cor.europa.eu/v1/documents/COR-2020-04843-00-01-AC-TRA-EN.docx/content>

⁴ CoR opinion by Peter Kaiser (AT/PES) adopted on 19 March 2021 <https://webapi2016.cor.europa.eu/v1/documents/COR-2020-05859-00-00-AC-TRA-EN.docx/content>

⁵ <https://www.calrenet.eu/>

⁶ <https://cor.europa.eu/en/events/Pages/multi-level-governance-and-active-subsidiarity-for-sustainable-recovery-and-resilience.aspx>

⁷ CoR opinion by Piero Zanin (IT/EPP) adopted on 1 December 2021 <https://webapi2016.cor.europa.eu/v1/documents/COR-2021-04071-00-00-AC-TRA-EN.docx/content>

tools of the CoR, i.e. its Subsidiarity monitoring, its RegHub network⁸, which also collects evidence for the Fit for Future (F4F) platform⁹, and territorial impact assessments¹⁰, into one governance framework, in order to improve cooperation, links and synergies between the individual tools and actors and to forge stronger links with the Commission's better regulation toolbox and the tools developed by the European Parliamentary Research Service.

On the wider subsidiarity agenda, the CoR also positioned itself in the framework of the Conference on the Future of Europe. The CoR posted on the Conference on the Future of Europe's digital platform a contribution on how to "Use "active subsidiarity" to better involve parliaments, regions and cities in the shaping of European policies"¹¹. This contribution calls inter alia for a systematic use of the subsidiarity "grid" developed by the CoR, more transparent and broader territorial assessments to evaluate the impact of EU legislation in cities and regions, applying subsidiarity also in EU governance processes, such as the European Semester and, in case of Treaty reform, giving national/regional parliaments and/or the CoR a right of initiative for proposing or removing EU legislation and providing the principle of proportionality with the same legal consideration as the principle of subsidiarity".

The CoR also actively participated in the Conference on the Future of Europe's Working Group on Democracy, in which CoR President Apostolos Tzitzikostas was mandated in December 2021 to be, together with Danish Member of Parliament Ms Eva Kjer Hansen, co-rapporteur on the pillar relating to "Subsidiarity and procedures".

The biennial 10th Subsidiarity Conference, which was initially planned to take place in 2021, was postponed by the CoR to early September 2022 in Valencia. The Conference would discuss the subsidiarity-relevant outcomes of the Conference on the Future on Europe and provide an opportunity for a further review process of the subsidiarity monitoring activities of the CoR in view of defining a new subsidiarity strategy of the CoR after 10 years.

⁸ <https://cor.europa.eu/en/our-work/Pages/network-of-regional-hubs.aspx>

⁹ In the F4F platform, where the CoR is represented in the Government group, its members Mark Speich (DE/EPP, CIVEX commission chair), Anne Karjalainen (FI/PES, SEDEC chair) and Ulrika Landergren (SE/RE, NAT chair), presented in 2021 opinions evaluating respectively the implementation of EU legislation on e-procurement, environmental reporting (Inspire directive) and patients' rights in cross-border healthcare.

¹⁰ <https://cor.europa.eu/en/our-work/Pages/Territorial-Impact-Assessment.aspx>

¹¹ <https://futureu.europa.eu/processes/Democracy/f/6/proposals/114517>